

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 61, “Minimum Physical Standards for Nursing Facilities,” Iowa Administrative Code, and to adopt a new Chapter 61 with the same title.

The proposed amendment rescinds the current Chapter 61 and replaces it with a new Chapter 61, which incorporates by reference generally accepted design and construction standards for the construction and renovation of nursing facilities. The Department requested the assistance of the Building Code Bureau of the State Fire Marshal’s office to review the rules pertaining to minimum physical standards for nursing facilities. A full review of the rules has not been conducted for nearly 20 years, during which time most national building codes and standards have been significantly revised.

During the review process, the Building Code Bureau compared the provisions of existing Chapter 61 against the national building codes and standards and determined that many of the provisions were outdated, unenforceable, or irrelevant.

The proposed amendment incorporates the following building codes and standards as part of the rewrite of Chapter 61:

- Life Safety Code, 2000 edition.
- Iowa State Building Code—General Provisions, 661—Chapter 301.
- Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facilities Guidelines Institute.

Additionally, the proposed amendment incorporates references to the FDA Food Code, adopted pursuant to Iowa Code section 137F.2, and updates requirements pertaining to physical standards dealing with food preparation and service areas. Consideration is given to existing nursing facilities, which are deemed to be in compliance if they were in compliance with prior versions of Chapter 61 at the time of their construction or renovation.

Essentially, the proposed amendment omits from new Chapter 61 all design and construction standards contained within the administrative rules of the Department of Public Safety, State Building Code Bureau. The proposed amendment, therefore, focuses on those physical standards directly related to the care of nursing home residents, including the preparation of foods and the maintenance of specialized units or rooms.

The Department does not believe that the proposed amendment poses a financial hardship on any regulated entity or individual. Rather, adoption of the proposed amendment eliminates redundant language from the Iowa Administrative Code and references minimum physical standards to national standards.

The State Board of Health initially reviewed the proposed amendment at the Board’s November 14, 2012, meeting.

Any interested person may make written suggestions or comments on the proposed rules on or before January 2, 2013. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa 50319-0083; faxed to (515)242-6863; or e-mailed to David.Werning@dia.iowa.gov.

Additionally, there will be a public hearing on January 3, 2013, at 10 a.m. in Room 319 of the Lucas State Office Building, 321 East 12th Street, Des Moines, Iowa, at which time persons may present their

views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any person who intends to attend the public hearing and has special requirements, such as those relating to hearing or mobility impairments, should contact the Department of Inspections and Appeals and advise of special needs.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 135C.14.

The following amendment is proposed.

Rescind 481—Chapter 61 and adopt the following new chapter in lieu thereof:

CHAPTER 61

MINIMUM PHYSICAL STANDARDS FOR NURSING FACILITIES

481—61.1(135C) Definitions. Definitions in rule 481—58.1(135C) are incorporated by reference as part of this chapter. In addition, the following definition shall apply:

“Responsible design professional” means a registered architect or licensed professional engineer who signs the documents submitted pursuant to rule 481—61.3(135C).

481—61.2(135C) General requirements. Nursing facilities licensed under this chapter shall be built in accordance with the following construction standards:

61.2(1) Construction shall be in conformance with 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

61.2(2) Construction shall be in conformance with 661—Chapter 301, State Building Code—General Provisions.

EXCEPTION 1: Projects designed to meet the local building code shall be deemed to be in compliance with the state building code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and such code is enforced through a system which includes both plan review and inspection. The final plan approval and final occupancy shall be given by the state fire marshal’s office.

EXCEPTION 2: Projects required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the project is in compliance with the provisions of 661—Chapter 205.

61.2(3) Construction shall be in accordance with the standards set forth in Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facility Guidelines Institute.

61.2(4) Nothing in these rules shall relieve a nursing facility from compliance with fire and building codes, ordinances and regulations which are enforced by city, county, state or federal jurisdictions.

61.2(5) New equipment. Any alteration or installation of new equipment shall be accomplished as nearly as practical in conformance with all applicable codes, ordinances, regulations and standards required for new construction. Alteration or installation of new equipment shall not diminish the level of compliance with any codes, ordinances, regulations or standards below that which existed prior to the alteration. Any feature that does not meet the requirement for new buildings but exceeds the requirement for existing buildings shall not be further diminished. Features that exceed requirements for new construction need not be maintained. In no case shall any feature be less than that required for existing buildings. (III)

61.2(6) Existing nursing facilities built in compliance with prior versions of this chapter will be deemed in compliance, with the exception of any renovations, additions, functional alterations, changes of space utilization, or conversions to existing facilities for which construction documents are submitted pursuant to rule 481—61.3(135C) on or after July 1, 2013, which shall meet the standards specified in this chapter. Conversion of a building or any of the parts not currently licensed as a nursing facility must meet the rules governing construction of new facilities.

481—61.3(135C) Submission of construction documents.

61.3(1) Submissions of architectural technical documents, engineering documents, and plans and specifications to the state fire marshal's office shall be as required by rule 661—300.4(103A) and are the responsibility of the owner of the building or facility, although the actual submission may be completed by an authorized agent of the owner or the responsible design professional.

61.3(2) Plans, specifications and other supporting information shall be sufficiently clear and complete to show in detail that the proposed work will comply with the construction standards required by rule 481—61.2(135C).

61.3(3) Submittals to the state fire marshal's office shall be certified or stamped and signed as required by Iowa Code chapters 542B and 544A unless the applicant has certified on the submittal to the applicability of a specific exception under Iowa Code section 544A.18 and the submittal does not constitute the practice of engineering as defined by Iowa Code section 542B.2.

61.3(4) The responsible design professional shall certify that the building plans meet the requirements specified in this chapter, unless a variance has been granted pursuant to rule 481—61.4(135C).

481—61.4(135C) Variances.

61.4(1) Procedures in rule 481—58.2(135C) for requesting a variance are incorporated by reference as part of this chapter.

61.4(2) Certain resident populations, conditions in the area, or the site may justify variances. In specific cases, variances to the rules may be granted by the director after the following conditions are met:

- a.* The design and planning for the specific property shall offer improved or compensating features which provide equivalent desirability and utility;
- b.* Alternate or special construction methods, techniques, and mechanical equipment shall offer equivalent durability, utility, safety, structural strength and rigidity, sanitation, odor control, protection from corrosion, decay and insect attack, and quality of workmanship;
- c.* The health, safety or welfare of any resident shall not be endangered;
- d.* Variations are limited to the specific project under consideration and shall not be construed as establishing a precedent for similar acceptance in other cases;
- e.* The occupancy and function of the building shall be considered; and
- f.* The type of licensure shall be considered.

481—61.5(135C) Additional notification requirements.

61.5(1) When new construction or renovation, addition, functional alteration, change of space utilization, or conversion of an existing building is contemplated, the licensee or applicant for a license shall:

- a.* File a detailed and comprehensive program of care, as set forth in rule 481—58.3(135C), which includes a description of the specific needs of the residents to be served, and any other information the department may require. (III)
- b.* Receive written approval from the state fire marshal's office before starting construction. The applicant is responsible for ensuring that construction proceeds according to approved plans and specifications. If construction is not started within 12 months of the date of final approval of the working drawings and specifications, the approval shall be void and the plans and specifications shall be resubmitted. Multiphase projects shall be completed within a time period approved by the state fire marshal's office.
- c.* The total cost of renovation, addition, functional alteration, change of space utilization or conversion projects conducted within a three-year period shall be considered in determining whether the entire existing building must meet requirements for new construction.

61.5(2) Inspections.

a. For new construction or renovations, additions, functional alterations, change of space utilization or conversion of an existing building, it is the responsibility of the owner or an agent to notify

the state fire marshal's office at all of the following intervals and wait for inspection before proceeding. Inspections shall be conducted in accordance with the following schedule:

- (1) Two days prior to the beginning of any construction or demolition.
- (2) After installation of any under-slab plumbing and before covering is installed.
- (3) After installation of electrical, mechanical and plumbing and prior to covering.
- (4) Five days prior to a final occupancy inspection.

b. The following must approve the project before final occupancy: the state fire inspector, the state building inspector and, in jurisdictions without electrical code enforcement, the state electrical inspector. Approval of local or county jurisdictions is as required by those jurisdictions.

481—61.6(135C) Construction requirements. This rule contains construction requirements for all areas of the building.

61.6(1) General provisions.

a. Projects shall be constructed in compliance with 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

b. Projects shall be constructed in compliance with 661—Chapter 301, State Building Code—General Provisions.

EXCEPTION 1: Projects designed to meet the local building code shall be deemed to be in compliance with the state building code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and such code is enforced through a system which includes both plan review and inspection. The final plan approval and final occupancy shall be given by the state fire marshal's office.

EXCEPTION 2: Projects required to meet the provisions of the state building code shall be deemed to be in compliance with the fire safety requirements of the state building code if the nursing facility is in compliance with the provisions of 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

c. Projects shall be constructed in compliance with the standards set forth in Part 4.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, published by the Facility Guidelines Institute.

61.6(2) Mechanical requirements.

a. Projects shall be constructed in compliance with 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

b. Projects shall be constructed in compliance with the state mechanical code as provided in rule 661—301.4(103A).

EXCEPTION: Projects designed to meet the local mechanical code shall be deemed to be in compliance with the state mechanical code provided that the local jurisdiction has established a building department, has adopted a building code by ordinance and such code is enforced through a system which includes both plan review and inspection. The final plan approval and final occupancy shall be given by the state fire marshal's office.

61.6(3) Electrical requirements.

a. Projects shall be constructed in compliance with standards referenced in 661—Chapter 205, Fire Safety Requirements for Hospitals and Health Care Facilities.

b. Projects shall be constructed in compliance with the state electrical code as provided in rule 661—301.5(103A).

61.6(4) Plumbing requirements. Projects shall be constructed in compliance with 641—Chapter 25, State Plumbing Code.

61.6(5) Accessibility requirements. Projects shall be constructed in compliance with 661—Chapter 302, State Building Code—Accessibility of Buildings and Facilities Available to the Public.

61.6(6) Lighting requirements. Light shall be provided in the areas of the building as required in Table 1. Light in the resident care area, reading area, activities task area and dining area may be reduced to 30 foot-candles measured at the floor surface when tasks are not being performed in that area. (II, III)

Table 1

Area	Measured Site	Required Foot-candles
Resident rooms:		
General	floor	30
Resident care area	bed surface	100
Night light	floor below fixture	5
Staff areas:		
Nursing station	task surface	100
Medication room	task surface	100
Activities task area	task surface	75
Dining area	task surface	50
Corridor, stairway and hazardous area:		
General	floor	30
Night light	floor below fixture	10

61.6(7) Exit door alarm system. An exit door alarm system shall be installed on all designated fire exit doors. (I, II, III)

481—61.7(135C) Nursing care unit.

61.7(1) Each resident bedroom shall be designed so that the head of the bed is not in front of a window, heat register, or radiator. (III)

61.7(2) Soap holders shall be provided at showers and bathtubs. Soap holders in showers shall be recessed. (III)

61.7(3) Showers shall be equipped with a showerhead on the end of a flexible hose. (III)

61.7(4) A seclusion room may be used in an intermediate care facility for persons with mental illness. When a seclusion room is used, it must meet the following standards. A seclusion room shall:

- a. Be located where direct care staff can provide direct supervision; (I, II, III)
- b. Have only one door which swings out but does not swing into a corridor; (II, III)
- c. Have only locking devices that are approved by the state fire marshal; (I, II, III)
- d. Have unbreakable, fire-safe vision panels arranged to permit observation of the resident. The arrangement shall ensure resident privacy and prevent casual observation by visitors or other residents; (I, II, III)
- e. House only one resident at a time; (I, II, III)
- f. Have an area of at least 60 square feet, but not more than 100 square feet; (II, III)
- g. Be constructed to protect against the possibility of hiding, escape, injury and suicide; (I, II, III)
- h. Have construction of the room area, including floor, walls, ceilings, and all openings, approved in writing by the state fire marshal prior to construction or alteration of a room. Padding materials, if used, shall be approved in writing by the state fire marshal; (I, II, III)
- i. Contain only vandal- and tamper-resistant fixtures and hardware; (I, II, III)
- j. Contain no electrical receptacles; (I, II, III)
- k. Have exterior windows or a second exit for fire safety; (I, II, III)
- l. Have security screens with tamper-resistant locks on exterior windows. The locks must be approved in writing by the state fire marshal. Privacy of the resident shall be ensured; (I, II, III)
- m. Contain an exhaust ventilation system with a fan located at the discharge end of the system; (II, III)
- n. Have electrical switches for the light and exhaust ventilation systems installed outside the room; (I, II, III)
- o. Have an emergency call system for staff located outside the room near the observation window; (II, III) and
- p. Be built with materials that are easily maintained and sanitized. (III)

481—61.8(135C) Dietetic and other service areas.

61.8(1) *Dietetic service area.* The construction and installation of equipment of the dietetic service area shall comply with the requirements of the Food and Drug Administration Food Code adopted under provisions of Iowa Code section 137F.2. (III)

61.8(2) *General storage areas.* General storage areas totaling not less than 14 square feet per bed shall be provided. If each resident has a 4-foot wide closet in the bedroom, the general storage area per bed may be reduced from 14 square feet to 10 square feet per bed. Storage areas are not required to be located in only one room. (III)

a. Storage areas for linens, janitor's supplies, sterile nursing supplies, activities supplies, library books, office supplies, kitchen supplies and mechanical plant accessories shall not be included as part of the general storage area and are not required to be located in the same area. (III)

b. Thirty percent of the general storage area may be provided in a building outside the facility if the building is easily accessible to personnel. (III)

481—61.9(135C) Specialized unit or facility for persons with chronic confusion or a dementing illness (CCDI unit or facility). A CCDI unit or facility shall be designed in accordance with Section 4.2-2.2.3.2 and other applicable provisions of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, produced by the Facility Guidelines Institute. The following provisions shall also apply:

61.9(1) A CCDI unit or facility shall be designed so that residents, staff and visitors will not pass through the unit in order to reach exits or other areas of the facility unless in an emergency. (III)

61.9(2) If the unit or facility is to be a locked unit or facility, all locking devices shall meet the requirements of the state fire marshal. If the unit or facility is to be unlocked, a system of security monitoring is required. (I, II, III)

61.9(3) The outdoor activity area for the unit or facility shall be secure. Nontoxic plants shall be used in the secured outdoor activity area. (I, II)

61.9(4) There shall be no steps inside the CCDI unit or free-standing CCDI facility. (III)

61.9(5) Dining and activity areas for the unit or facility shall be located within the unit or facility and shall not be used as the primary dining or activity area by other facility residents. (III)

61.9(6) An area shall be provided to allow nurses to prepare daily resident reports. (III)

61.9(7) If the lounge and activity areas are not adjacent to resident rooms, there shall be in clear view of the lounge and activity area one unisex resident toilet room for each ten residents. (III)

These rules are intended to implement Iowa Code section 135C.14.